

APPEAL NO. 030870
FILED MAY 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 13, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant has not had disability; and that the claimant is not barred from pursuing workers' compensation benefits because of any election of remedies. The claimant appealed the hearing officer's determinations that he did not sustain a compensable injury on _____, and that he has not had disability, contending that those determinations are against the great weight and preponderance of the evidence. The respondent (carrier) responded, urging affirmance. There is no appeal of the hearing officer's determination on the issue of election of remedies.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he has had disability as defined by Section 401.011(16). While it is undisputed that the claimant was in the course and scope of his employment at the time of the motor vehicle accident (MVA) and that the claimant has a back condition, the hearing officer was not persuaded that the claimant sustained an injury, as defined by Section 401.011(26), as a result of the accident. In other words, the hearing officer was not persuaded that the claimant's back problem was caused by the MVA. Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge